defendant, conditioned upon his being reimbursed for the reasonable outlay, innocently incurred. An analogous situation is expressly provided for in the new U. S. COPYRIGHT CODE (Act of March 4, 1909, c. 320, § 20; 35 Stat. at Large, 1080). And see the BRITISH COPYRIGHT ACT, 2 George V, c. 46, Part I, § 8.

CORPORATIONS — DISTINCTION BETWEEN CORPORATION AND ITS MEMBERS — DISREGARDING CORPORATE FICTION — COMPELLING HOLDING COMPANY TO PRODUCE SUBSIDIARY COMPANY'S BOOKS. — The plaintiff was a stockholder in a corporation owning practically all the stock of eight other corporations, a majority of whose boards of directors were officers of the holding company. The plaintiff, charging fraud in the management of the corporate business, brings suit against the holding company and its directors, and moves for the production not only of the defendant's books but for those of the corporations under its control. *Held*, that the motion be granted. *Martin* v. *D. B. Martin Co.*, 88 Atl. 612 (Del.).

There is a well-established right on the part of a shareholder of a corporation, after complying with certain requirements, to proceed in equity against the officers who are fraudulently mismanaging the corporate enterprise. See COOK ON CORPORATIONS, 7 ed., § 645. Another well-recognized incident of stock ownership is the right to inspect the books of the corporation in which the stockholder has invested his money. See 23 HARV. L. REV. 641. The Delaware court disregards the separate entities of the controlled corporations, and cites with approval a *dictum* allowing the corporate fiction to be disregarded to circumvent fraud or where one organization has become the "adjunct" of another. See *In re Watertown Paper Co.*, 169 Fed. 252, 256; *Hunter* v. *Baker Co.*, 190 Fed. 665, 668. The latter half of the rule, at least, seems somewhat arbitrary and uncertain, and has little to commend it. Too often the courts reject the doctrine of separate corporate existence when it is wholly unnecessary to do so, as in the cases where an insolvent fraudulently conveys his property to a corporation of which he is manager. *Bennett* v. *Minott*, 28 Ore. 339; *Bank* v. *Trebein*, 59 Ohio St. 316. Here the corporations being chargeable with knowledge through their officers, the cases could be disposed of under the ordinary principles of fraudulent conveyances. It is submitted that conservatism in disregarding the existence of the corporate unit is very desirable. The way is opened for difficulties and uncertainties, and a loss of the valuable features of organization in this form is more than possible. See *Gallagher* v. *Germania Brewing Co.*, 53 Minn. 214, 219. Further, in the principal case the same result can be reached without a disregard. The holding company as a shareholder had a right to inspect the books of the organizations whose stock it owned. The plaintiff is taking steps to enforce a right belonging to the corporation. See *Flynn* v. *Brooklyn, etc. R. Co.*, 158 N. Y. 493, 508. He could, by joining the subsidiary companies as well as the holding company, secure complete redress without calling the existence of the former companies into question. It is submitted that this is the more desirable way of enforcing the stockholder's rights.

COVENANTS OF TITLE — INCUMBRANCES — PUBLIC HIGHWAY AS BREACH. — The defendant conveyed to the plaintiff, with the usual covenant against incumbrances, rural land across which a public highway had been laid out prior to the time of the conveyance, but which had not been opened for use and the existence of which was not known to either party at the time. *Held*, that the public highway is not a breach of the covenant. *Sandum* v. *Johnson*, 142 N. W. 878 (Minn.).

An easement is such an interference with the dominion of the owner over his land as to constitute a breach of a covenant against incumbrances. *Kellogg* v. *Ingersoll*, 2 Mass. 97; *Copeland* v. *McAdory*, 100 Ala. 553, 13 So. 545. In some jurisdictions, however, an exception is made in the case of a public highway.

It is said that where incumbrances affect only the physical condition of the property, and are obvious to the purchaser, he must have seen them and fixed his price with reference to such incumbrances. *Memmert* v. *McKeen*, 112 Pa. 315, 4 Atl. 542; *Janes* v. *Jenkins*, 34 Md. 1. But the knowledge that a third party claims an easement may often be the sole motive inducing him to demand the protection of a covenant. *Beach* v. *Miller*, 51 Ill. 206, 211. Such facts, even when they fairly evidence the intention of the parties to exclude the incumbrance from the covenant, would be excluded by the parol evidence rule. See *Demars* v. *Koehler*, 62 N. J. L. 203, 206, 41 Atl. 720, 721; *Holmes* v. *Danforth*, 83 Me. 139, 142, 21 Atl. 845, 846. The strongest argument for the exception is, that by the universal course of dealing, public highways over rural land have never been regarded as incumbrances, and that this should be considered in interpreting the covenant. *Harrison* v. *Des Moines, etc. R. Co.*, 91 Ia. 114, 58 N. W. 1081; *Patterson* v. *Arthurs*, 9 Watts (Pa.) 152; *Whitbeck* v. *Cook*, 15 Johns. (N. Y.) 483. In some jurisdictions especially this seems to be a settled custom. *Wilson* v. *Cochran*, 46 Pa. 229; *Schurger* v. *Moorman*, 20 Ida. 97, 117 Pac. 122. A similar result has been reached by statute in some states. PUB. STAT. VT., 1906, § 3952; REV. STAT. ILL., 1909, ch. 30, § 39. The principal case, however, cannot be supported on this line of reasoning, since the highway was neither known to the parties, nor in use at the time of the conveyance. *Howell* v. *Northampton R. R. Co.*, 211 Pa. 284, 60 Atl. 793. But it is said that a public highway is not depreciative, but appreciative of the value of the land, and so is not an incumbrance, but a benefit. *Harrison* v. *Des Moines, etc. R. Co., supra.* Aside from the fact that this is not always true, an easement, whether public or private, is an interference with the owner's right to absolute dominion over the land and in that respect an injury to him. The actual damage occasioned by it should affect the determination of damages rather than the question whether or not it is an incumbrance. *Kellogg* v. *Ingersoll, supra*; *Hubbard* v. *Norton*, 10 Conn. 422; *Kellogg* v. *Malin*, 50 Mo. 496; *Demars* v. *Koehler*, 62 N. J. L. 203, 205, 41 Atl. 720, 721. The principal case is contrary to the weight of authority. See cases collected in RAWLE, COVENANTS FOR TITLE, sec. 80–83.

DEEDS — CONDITIONS — VALIDITY OF CONDITION SUBSEQUENT IN RESTRAINT OF TRADE. — The plaintiff, a brewer, conveyed land, title to revest if a saloon should not be maintained on it, or if beer other than the plaintiff's should be sold therein. The condition being broken, the plaintiff brings an action to enforce the forfeiture against one holding under the original grantee. *Held*, that the plaintiff cannot enforce a forfeiture. *Ruhland* v. *King*, 143 N. W. 681 (Wis.).

A condition subsequent in a deed of land revesting title in the grantor is valid at common law. Such a condition is void, however, if contrary to public policy. *Randall* v. *Marble*, 69 Me. 310. See *Smith* v. *Barrie*, 56 Mich. 314, 317, 22 N. W. 816, 818. A condition to the effect that the premises conveyed should be used for a certain manufacturing purpose only has been held to be valid. *Sperry* v. *Pond*, 5 Ohio 387. The ground of the decision in the principal case, however, was that the condition as to buying the beer from the plaintiff only was an unlawful restraint of trade. The modern tendency has been to uphold contracts, if the restraint imposed is a reasonable one, whether total or partial. *Nordenfelt* v. *Maxim Nordenfelt Gun & Ammunition Co.*, [1894] A. C. (Eng.) 535; *Oakdale Mfg. Co.* v. *Garst*, 18 R. I. 484, 28 Atl. 973. Thus a contract to purchase goods of one firm only is not in unreasonable restraint of trade, although unlimited in time. *Brown* v. *Rounsavell*, 78 Ill. 589; *John Bros. Abergarn Brewery Co.* v. *Holmes*, [1900] 1 Ch. (Eng.) 188. On principle the restraint imposed in the principal case would seem to be reasonable, for it does not